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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,550	02/10/2004	Darrell R. Estep	ESTD101	3132

7590 12/02/2005

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EXAMINER

DOOLEY, JAMES C

ART UNIT PAPER NUMBER

3634

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/776,550	Applicant(s) ESTEP, DARRELL R.	
	Examiner James C. Dooley	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/4/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. In line 1 of the Abstract "the present invention" should be changed to -A--, since the abstract should avoid using phrases which can be inferred.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 1 recites the limitation "each post" in line 6. There is insufficient antecedent basis for this limitation in the claim.
4. In Claim 5 line 4, information is missing after "adjacent".

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Ernst (US Patent No. 6,637,605). Ernst discloses a workpiece storage means, which is capable of being mounted on a flat surface.

The base as taught by Ernst is seen as item 12. Being 3-dimensional and substantially rectangular the base member 12 inherently has a top, bottom, left and right ends. The base member is seen as being removably attached to the bracket 10, which is capable of being mounted on an underside of a flat surface.

Ernst teaches a plurality of Dowels (13, 14) on each base member. Due to the spring nature of the design of Ernst (col. 2 ln. 42), it is known that a friction fit would be necessary to achieve any functionality of the spring.

The retaining pin taught by Ernst is seen as the protrusion on arm 14. It is clear from the design of Ernst that an L-shaped opening could be engaged over the protrusion and twisted to lock in place.

The generally flat insertion tab of Ernst is seen as tab 18. The tab is seen as being generally flat along the upper surface. The tab is seen as being attached to the base member through arm 15, and from figure 1A it can be seen that the tabs 18 are adjacent and parallel to the bottom side of the base member 12. The tabs 18 are disclosed by Ernst to provide a removable attachment of the base member 12 from the bracket 10 (col. 3 ln. 16-19).

The mounting bracket 1 is capable of being mounted to any flat surface, and it is seen that the storage method of Ernst would function at any orientation. Ernst also discloses that the tabs 18 are slideably engaged into a slot (8) in the mounting bracket 1 (col. 3. ln. 8-15).

Regarding claim 2 it has been clarified above that guide dowels utilize a friction fit as well as an interfitting engagement with the attachment shaft.

Regarding claim 3 Ernst discloses two base plates, item 15, adjacent to the base member 12.

Regarding claim 4 the base plates 15 have a flat elongated bottom portion, as can be seen clearly in figures 1 and 1A. The flat bottom portions of plates 15 would provide sufficient vertical stability if the base member 12 were removed from the bracket 1 and placed in an upright position.

Claim 5 is seen as repeating the limitations of claim 1 excluding the limitation of the generally flat elongated tab and including the limitations of claims 3 and 4.

Therefore claim 5 has been discussed above.

It is noted that the attachment set forth in the claims is being functionally recited. Thus, a reference need not explicitly show use with such an attachment in order to meet the claim language. Rather, a reference need only be capable of functioning with such an attachment.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

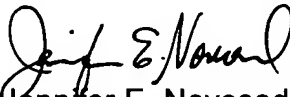
8. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ernst as applied to claims 1-5 and further in view of Noland et al. (US Patent No. 4,739,885). Ernst discloses a bracket having a U-shaped construction (comprising sides 7,9,8), having a spine 11, and a mounting pad (located at 10), and an opening for a screw (10). Ernst does not disclose a left and right mounting pad. Noland et al. teaches a storage system for mixer attachments, mounted on the underside of a flat surface (col. 1 ln. 27-30). Noland disclose a left and right mounting location (14). Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to modify the mounting bracket of Ernst to include a left and right mounting locations and openings for screws as taught by Noland et al. The motivation being seen that in order to facilitate anchoring on the underside of a flat surface two mounting locations would be more stable than one.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C. Dooley whose telephone number is 571-2721679. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jennifer E. Novosad
Primary Examiner
Art Unit 3634

11/23/2005